mpt IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7507 of 2007

Rashtriya Shramik Sangh .. Petitioner

versus

New Mumbai Municipal Corporation

and anr. .. Respondents

...

Mr.M.S. Topkar for the petitioner.

CORAM : S.B. MHASE AND

D.G.KARNIK, JJ

DATED : 11th October 2007

P.C.:

1. By this petition, the petitioner seeks a direction that in the tender documensts to be issued by the respondent no.2 Municipal Corporation for clearance of garbage a condition be inserted to engage employees of the previous garbage clearing contractor.

2. The work of garbage clearance in the area of respondent no.2 municipal corporation has, in the past few years, been done through contractors who are

chosen by means of tender. Previously, there was a practise that a new contractor for any year would employ/engage the workman employed by the previous contractor. There never was a condition in the previous tender documents requiring the new contractor to engage with the employee of the past contractor though the new contractor usually employed the employees of the previous contractor. Fearing that the new contractors may not follow practise the petitioner Union has filed this writ petition praying that respondent no.2 be directed to insert a condition in the tender documents about appointing employees of the previous contractor. What should be the terms and conditions of the tender is a matter of policy to be followed by the respondent no.2. No direction can be issued to the respondent no.2 to add a particular condition in the tender documents. No such condition was previously included in the previous tenders. The petitioner union has no right for insisting that such a condition should be imposed in the tender document.

3. Petition is totally misconceived and is hereby rejected.

(D.G. KARNIK, J) (S.B. MHASE, J)